

30-GH2863\AO

Nauman
5/1/18**CS FOR HOUSE BILL NO. 331(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEEOffered:
Referred:Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR~~Introduced: 2/7/18~~~~Referred: Resources, Finance~~**A BILL****FOR AN ACT ENTITLED**

1 "An Act establishing the Alaska Tax Credit Certificate Bond Corporation; relating to
2 the issuance of bonds by the Alaska Tax Credit Certificate Bond Corporation; relating
3 to purchases of tax credit certificates and refunds and payments of tax credits; relating
4 to the oil and gas tax credit fund; relating to overriding royalty interest agreements; and
5 providing for an effective date."

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 36.30.850(b) is amended by adding new paragraphs to read:

8 (49) contracts of the Alaska Tax Credit Certificate Bond Corporation
9 under AS 37.18.010—~~37.18.900~~;

10 (50) overriding royalty interest agreements under AS 44.37.230.

* **Sec. 2.** AS 37 is amended by adding a new chapter to read:

Chapter 18. Alaska Tax Credit Certificate Bond Corporation.

Sec. 37.18.010. Alaska Tax Credit Certificate Bond Corporation. ~~There is established the~~The Alaska Tax Credit Certificate Bond Corporation. ~~is established in the Department of Revenue.~~ The corporation is a public corporation and government instrumentality ~~in the Department of Revenue~~ managed by a board of directors. The purpose of the corporation is to finance ~~purchases and payments~~ under AS 43.55.028 ~~of transferable tax credit certificates issued under AS 43.55.023, production tax credit certificates issued under AS 43.55.025, and payments claimed under AS 43.20.046, 43.20.047, or 43.20.053.~~

(1) the purchase of

(A) transferable tax credit certificates issued under AS 43.55.023;

(B) production tax credit certificates issued under AS 43.55.025; and

(2) the payment of refunds and payments claimed under AS 43.20.046, 43.20.047, or 43.20.053.

Sec. 37.18.020. Board of directors. The directors of the corporation are the commissioner of commerce, community, and economic development, the commissioner of administration, and the commissioner of revenue. If a director is absent or otherwise unable to act, the director's designee in the department shall act as a director of the corporation in the director's place.

Sec. 37.18.030. Bond authorization; powers of the corporation. (a) The issuance and sale of bonds by the corporation is authorized as provided in this section for purposes of financing purchases, refunds, and payments under AS 43.55.028, ~~including and~~ the costs of issuance and administration of the bonds. The net proceeds of the sale of the bonds remaining after payment of costs of issuance and administration ~~shall~~may be ~~transferred~~disbursed to the commissioner of revenue for ~~disbursement~~purchases, refunds, and payments under AS 43.55.028 ~~for purchases or payments.~~ Accrued interest paid on the bonds shall be paid into the reserve fund. The ~~authorization to~~corporation may not issue bonds ~~in this section expires on~~, except for

refunding bonds, after December 31, 2021.

(b) The total unpaid principal amount of bonds, including refunding bonds, but excluding refunded bonds, issued by the corporation for the purposes of financing purchases, refunds, and payments under AS 43.55.028 may not exceed \$1,000,000,000.

(c) The bonds do not constitute a general obligation of the state and are not state debt within the meaning of art. IX, sec. 8, Constitution of the State of Alaska. Authorization by the legislature and ratification by qualified voters of the state ~~or the legislature~~ is not required under art. IX, sec. 8, Constitution of the State of Alaska.

(ed) The corporation may enter into agreements with other state agencies as necessary or convenient to implement this ~~section and AS 37.18~~ chapter.

(de) The corporation may contract for the services of underwriters, paying agents, trustees, escrow agents, bond printers, rating agencies, bond insurance, credit enhancement providers, accountants, financial advisors, disclosure counsel, and bond counsel, and other services as are necessary or desirable to accomplish the ~~bond~~ issuance and sale of bonds.

Sec. 37.18.040. Reserve fund. (a) The corporation may establish and maintain a special fund called the Alaska Tax Credit Certificate Bond Corporation reserve fund ~~in which there shall be deposited or transferred~~. The reserve fund consists of

(1) ~~all~~ money appropriated to the reserve fund by the legislature for the purpose of the reserve fund in accordance with the provisions of (g) of this section;

(2) ~~all~~ proceeds of bonds required to be deposited in the fund by terms of a

(A) contract between the corporation and its bondholders; ~~or a~~

(B) resolution of the corporation with respect to the proceeds of

bonds;

(3) ~~all~~ other money appropriated by the legislature to the reserve fund; and

(4) ~~any~~ other money ~~or funds~~ of the corporation that it decides to deposit in the reserve fund.

~~(b) Subject to the provisions of (h) of this section, money~~ (b) Money in the

1 reserve fund shall be held and applied solely to the payment of the interest on and
2 principal of bonds of the corporation as the interest and principal become due and
3 payable to the retirement of bonds, or for disbursement ~~by~~to the commissioner of
4 revenue for purchases or payments under AS 43.55.028. Money may not be withdrawn
5 if a withdrawal would reduce the amount in the reserve fund to an amount less than
6 the required debt service reserve except for payment of interest then due and payable
7 on bonds and the principal of bonds then maturing and payable and for the retirement
8 of bonds in accordance with the terms of a contract between the corporation and its
9 bondholders and for which payments of other money of the corporation is not then
10 available.

11 (c) Money in the reserve fund in excess of the required debt service reserve ~~as~~
12 ~~defined in (b) of this section~~, whether because of investment or otherwise, may be
13 withdrawn at any time by the corporation for disbursement by the commissioner of
14 revenue for purchases or payments under AS 43.55.028 or transferred to another fund
15 or account of the corporation ~~subject to the provision of (h) of this section.~~

16 (d) Money in the reserve fund may be invested in the same manner and on the
17 same conditions as permitted for investment of funds belonging to the state or held in
18 the treasury under AS 37.10.070; however, the corporation may agree with the
19 bondholders to further limit ~~these~~those investments.

20 (e) For purposes of valuation, investments in the reserve fund shall be valued
21 at par or, if purchased at less than par, at cost unless otherwise provided by resolution
22 of the corporation. Valuation on a particular date shall include the amount of interest
23 then earned or accrued to that date on the money or investments in the reserve fund.

24 (f) Notwithstanding any other provision of this chapter, ~~bonds may not be~~
25 ~~issued by~~ the corporation may not issue bonds unless there is in the reserve fund the
26 required debt service reserve for all bonds then issued and outstanding and for the
27 bonds to be issued; however, the corporation may satisfy this requirement by
28 depositing as much of the proceeds of the bonds to be issued, on their issuance, as is
29 needed to meet the required debt service reserve or by funding the reserve fund with
30 cash, a surety bond, letter of credit, or other instrument in the ~~face~~ amount necessary
31 to meet the required debt service reserve. The corporation may, at any time, issue its

bonds or notes for the purpose of increasing the amount in the reserve fund to the required debt service reserve, or to meet whatever higher or additional reserve that may be fixed by the corporation with respect to the fund.

(g) To ~~assure~~ensure the maintenance of the required debt service reserve in the reserve fund, the legislature may appropriate annually to the corporation for deposit in the fund the sum, certified by the chair of the corporation to the governor and to the legislature, that is necessary to restore the fund to an amount equal to the required debt service reserve. The chair annually, before January 30, shall make and deliver to the governor and to the legislature a certificate stating the sum required to restore the fund to that amount, and the certified sum may be appropriated and paid to the corporation during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

~~(h) All amounts received because of money appropriated to the reserve fund shall be held and applied in accordance with (b) of this section.~~

~~(h)~~ All references to the reserve fund in this section include special accounts within the reserve fund that may be created by the corporation to secure the payment of particular bonds.

~~(j)~~ The commissioner of revenue may, subject to appropriation, lend surplus money in the general fund to the corporation for deposit to any account in the reserve fund in an amount equal to the required debt service reserve. The loans shall be made on the terms and conditions that may be agreed on by the commissioner of revenue and the corporation, including, without limitation, terms and conditions providing that the loans need not be repaid until the obligations of the corporation secured and to be secured by the account in the reserve fund are no longer outstanding.

~~(k)~~ In this section, "required debt service reserve" means, on the date of computation, the amount required to be on deposit in the reserve fund as provided by resolution of the corporation.

Sec. 37.18.050. Bond terms. (a) The bonds may be issued and sold at public or negotiated sale in the manner, in the amounts or series, and at the time or times that the corporation determines the bonds, or each series of them, shall be sold at the price and on the terms, conditions, and covenants set by the corporation after considering

1 market conditions. Interest rates may be fixed or variable. The corporation shall
2 publish notice of an adopted resolution.

3 (b) The bonds mature at the time or times fixed by the corporation. The bonds
4 may be subject to redemption before their fixed maturities, as determined by the
5 corporation, with or without a premium or premiums. The bonds may be in
6 denominations determined by the corporation; may be issued in fully or partially
7 registered form; must be payable as to principal and interest at the place or places
8 determined by the corporation; must be signed in the manner provided by the
9 corporation; and must be issued under and subject to the terms, conditions, covenants,
10 and protective features safeguarding payment of the bonds as found necessary by the
11 corporation. The corporation may ~~obtain credit~~, when necessary or desirable, enter
12 into an agreement with a provider of credit enhancement to provide liquidity or
13 security for the bonds, including, ~~without limitation~~, bond insurance, letters of credit,
14 surety bonds, or standby bond purchase agreements, ~~and may enter into agreements~~
15 ~~with providers of such credit enhancement as may be necessary or desirable.~~

16 (c) If the corporation finds it reasonably necessary, the corporation may select
17 a trustee or trustees for the holders of the bonds, or any series of them, for the
18 safeguarding and disbursement of any of the money in the bond reserve fund or for
19 duties with respect to the enforcement, authentication, delivery, payment, and
20 registration of the bonds as the corporation may determine. The corporation shall fix
21 the rights, duties, powers, and obligations of the trustee or trustees.

22 (d) In its determination of all matters and questions relating to the issuance
23 and sale of the bonds and the fixing of their maturities, terms, conditions, and
24 covenants as provided in (a) and (b) of this section, the decisions of the corporation
25 shall be those that are reasonably necessary for the best interests of the state and its
26 inhabitants and that will accomplish the most advantageous sale of the bonds.
27 Decisions of the corporation, as expressed in a bond resolution, are final and are
28 conclusively considered to comply with the requirements of this chapter.

29 **Sec. 37.18.060. Bond resolution.** The corporation shall authorize the issuance
30 of bonds by adopting a resolution and shall prepare all other documents and
31 proceedings necessary for the issuance, sale, and delivery of the bonds or any part or

series of them. The bond resolution must fix the principal amount, denominations, date, maturities, manner of sale, place or places of payment, rights of redemption, if any, terms, form, conditions, and covenants of the bonds or each series of them. The corporation shall publish notice of the adopted resolution.

Sec. 37.18.070. Enforcement by bond owner. (a) The owner or owners of not less than 10 percent, or a higher percentage as specified in ~~the~~a bond resolution, of the aggregate principal amount of any series or issue of bonds or the trustee for the owners of the bonds or any series of them may, by appropriate proceedings in state court, require and compel the transfer, setting aside, and payment of money and the enforcement of all of the terms, conditions, and covenants as required and provided in this chapter, as appropriate, and the bond resolution.

(b) A proceeding under (a) of this section may be commenced and conducted only in the Superior Court for the State of Alaska, First Judicial District at Juneau.

Sec. 37.18.080. ~~Purposes and sufficiency of revenue;~~ limitation on issuance. The proceeds of bonds may be used for the purposes described in AS 37.18.030, as appropriate. Bonds may not be issued unless the corporation first finds that the discount rate under AS 43.55.028(m) exceeds the true interest cost to be paid on the bonds by at least 1.5 percent annually.

Sec. 37.18.090. Refunding. (a) The corporation may refund the bonds or any part of them at or before their maturities or redemption dates by the issuance of refunding bonds of the corporation if, in the opinion of the corporation, refunding is advantageous to and in the best interest of the corporation, the state, and ~~its~~the state's inhabitants.

(b) The issuance of refunding bonds need not be authorized by the legislature or ratified by qualified voters of the state ~~or by an act, as required by art. IX, sec. 8, Constitution~~ of the ~~legislature~~State of Alaska. The corporation shall adopt the resolution or resolutions and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of the refunding bonds. All provisions of this chapter are applicable to the refunding bonds and to the issuance, sale, or exchange of them, except as otherwise provided in this section.

(c) Refunding bonds may be issued in a principal amount sufficient to provide

1 money for the advance or current refunding of all bonds to be refunded and interest on
2 the refunded bonds and, in addition, for the payment of all costs of issuance and
3 administration of the refunding bonds. ~~These~~Those expenses also include the
4 difference in amount between the par value of the refunding bonds and any amount
5 less than par for which the refunding bonds are sold; the premium, if any, necessary to
6 be paid to call or retire the outstanding bonds and the interest accruing on them to the
7 date of the call or retirement; and other of ~~these costs. The corporation is authorized to~~
8 ~~incur expenses to carry out this section.~~those costs.

9 (d) The corporation may contract with a refunding trustee to hold the proceeds
10 of refunding bonds in trust until the proceeds, together with earnings on the proceeds,
11 are applied to pay the principal of, premium, if any, and interest on the bonds to be
12 refunded. Until the refunding bond proceeds are applied, the proceeds may be invested
13 in direct obligations of, or obligations guaranteed by, the United States or an agency or
14 corporation of the United States whose obligations constitute direct obligations of, or
15 obligations guaranteed by, the United States, or other obligations ~~as may be~~ specified
16 in ~~the~~a bond resolution.

17 (e) The corporation is authorized to incur expenses to carry out this section.

18 **Sec. 37.18.100. Bonds as legal investments.** The bonds are legal investments
19 for all banks, trust companies, savings banks, savings and loan associations, and other
20 persons carrying on a banking business, all insurance companies and other persons
21 carrying on an insurance business, and all executors, administrators, trustees, and other
22 fiduciaries. The bonds may be accepted as security for deposits of all money of the
23 state and its political subdivisions.

24 **Sec. 37.18.110. Limitation on judicial action.** A person may not bring a
25 judicial action to contest the constitutionality or validity of this chapter or the
26 constitutionality or validity of a bond issued and sold under this chapter unless the
27 action is commenced in a court of the state of competent jurisdiction within 45 days
28 after the corporation adopts a resolution under AS 37.18.060 authorizing the issuance
29 of bonds. A person that fails to commence an action in the time provided under this
30 section is barred from commencing an action to contest the constitutionality or validity
31 of a bond issued and sold under this chapter.

Sec. 800.37.18.170. Statutory construction. This chapter shall be liberally construed to carry out the purposes for which it was enacted.

Sec. 37.18.810180. Regulations. The corporation may adopt regulations necessary to implement the provisions of this chapter.

Sec. 37.18.900190. Definitions. In this chapter,

(1) "bond resolution" means the resolution or resolutions adopted by the corporation under AS 37.18.060 authorizing the issuance of bonds;

(2) "bonds" means the bonds authorized in this chapter;

(3) "corporation" means the Alaska Tax Credit Certificate Bond Corporation created in AS 37.18.010;

(4) "costs of issuance and administration" means all costs associated with issuance and administration of bonds and refunding bonds, including costs of bond printing, official statements, financial advisors, travel costs, rating agencies, bond insurance, letters and lines of credit for credit enhancement, underwriters, remarketing agents, legal services, paying agents, bonds registrars, bond and escrow trustees, arbitrage rebate, ~~and all other costs, including~~ administrative costs, both direct and indirect, and all other costs;

~~(5) "department" means the Department of Revenue;~~

~~(6)(5)~~ "reserve fund" means the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040.

* **Sec. 3.** AS 43.20.046(e) is amended to read:

(e) Subject to the requirements in **AS 43.55.028** [AS 43.55.028(j)], the department may use either available money ~~either~~ in the oil and gas tax credit fund established in AS 43.55.028 **or, subject to appropriation by the legislature, money disbursed to the commissioner for refunds under AS 43.55.028 from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040 for purchases under AS 43.55.028, or both,** to make the refund applied for under (d) of this section in whole or in part if the department finds that, after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero.

* **Sec. 4.** AS 43.20.047(e) is amended to read:

(e) Subject to the requirements in AS 43.55.028 [AS 43.55.028(j)], the department may use either money available ~~either~~ in the oil and gas tax credit fund established in AS 43.55.028 or, subject to appropriation by the legislature, money disbursed to the commissioner for refunds and payments under AS 43.55.028 from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040, or both, to make a refund or payment under (d) of this section in whole or in part if the department finds that, after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero.

* Sec. 5. AS 43.20.053(e) is amended to read:

~~for purchases under AS 43.55.028~~(e) Subject to the requirements in AS 43.55.028 [AS 43.55.028(j)], the department may use either money available in the oil and gas tax credit fund established in AS 43.55.028 or, subject to appropriation by the legislature, money disbursed to the commissioner for refunds and payments under AS 43.55.028 from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040, or both, to make a refund or payment under (d) of this section in whole or in part if the department finds that, after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero.

* ~~Sec. 5.~~ AS 43.20.053(e) is amended to read:

~~(e) Subject to the requirements in AS 43.55.028 [AS 43.55.028(j)], the department may use money available either in the oil and gas tax credit fund established in AS 43.55.028 or disbursed to the commissioner from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040 for purchases under AS 43.55.028 to make a refund or payment under (d) of this section in whole or in part if the department finds that, after application of all available tax credits, the claimant's total tax liability under this chapter for the calendar year in which the claim is made is zero.~~

~~* Sec. 6.~~ AS 43.55.028(~~eb~~) is amended to read:

(b) The oil and gas tax credit fund consists of

(1) money appropriated to the fund, including any appropriation of the

percentage provided under (c) of this section of all revenue from taxes levied by AS 43.55.011 that is not required to be deposited in the constitutional budget reserve fund established in art. IX, sec. 17(a), Constitution of the State of Alaska, **less the amount described in (r) of this section; and**

(2) earnings on the fund.

*** Sec. 7. AS 43.55.028(e) is amended to read:**

(e) The department, on the written application of a person to whom a transferable tax credit certificate has been issued under AS 43.55.023(d) or former AS 43.55.023(m) for an expenditure incurred before July 1, 2017, or to whom a production tax credit certificate has been issued under AS 43.55.025(f) for an expenditure incurred before July 1, 2017, may use **either** available money in the oil and gas tax credit fund **or, subject to appropriation by the legislature, money disbursed to the commissioner, or both,** to purchase, in whole or in part, the certificate. The department may not purchase **with money from the oil and gas tax credit fund** a total of more than \$70,000,000 in tax credit certificates from a person in a calendar year. **The total amount of purchases made by the department with money from the oil and gas tax credit fund from a person in a year may not exceed the assumed payment amount for each year, as calculated under (l) of this section without the discount provided in (m) of this section.** Before purchasing a certificate or part of a certificate, the department shall find that

(1) the calendar year of the purchase is not earlier than the first calendar year for which the credit shown on the certificate would otherwise be allowed to be applied against a tax;

(2) the application is not the result of the division of a single entity into multiple entities that would reasonably be expected to apply as a single entity if the \$70,000,000 limitation in this subsection did not exist;

(3) the applicant's total tax liability under AS 43.55.011(e), after application of all available tax credits, for the calendar year in which the application is made is zero;

(4) the applicant's average daily production of oil and gas taxable under AS 43.55.011(e) during the calendar year preceding the calendar year in which

the application is made was not more than 50,000 BTU equivalent barrels; and

(5) the purchase is consistent with this section and regulations adopted under this section.

* **Sec. 78.** AS 43.55.028(g) is amended to read:

(g) The department shall adopt regulations to carry out the purposes of this section, including standards and procedures to allocate available money among applications for purchases under this chapter and claims for refunds and payments under AS 43.20.046, 43.20.047, or 43.20.053 when the total amount of the applications for purchase and claims for refund exceed the amount of available money in the fund. The regulations adopted by the department:

(1) may not, when allocating available money in the fund under this section, distinguish an application for the purchase of a credit certificate issued under former AS 43.55.023(m) or a claim for a refund or payment under AS 43.20.046, 43.20.047, or 43.20.053;

(2) must, when allocating available money in the fund under this section, grant a preference, between two applicants, to the applicant with a higher percentage of resident workers in the applicant's workforce, including workers employed by the applicant's direct contractors, in the state in the previous calendar year; in this paragraph, "resident worker" has the meaning given in AS 43.40.092(b);

(3) must, **for a purchase from money in the fund,** provide for the purchase of the amount equal to the first 50 percent of the credit repurchase limit for each person under (e) of this section at a rate of 100 percent of the value of the certificate or portion of the certificate requested to be purchased and the amount equal to the next 50 percent of the credit repurchase limit for each person under (e) of this section at a rate of 75 percent of the value of the certificate or portion of the certificate requested to be purchased.

* **Sec. 89.** AS 43.55.028(i) is amended to read:

(i) In this section,

(1) "money disbursed to the commissioner" means money disbursed to the commissioner from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040;

~~(2)~~ "qualified capital expenditure" has the meaning given in AS 43.55.023;

(3) "true interest cost" means the true interest cost of the bonds anticipated to be issued under AS 37.18 for the purchase in this section;

~~(3) "qualified capital expenditure" has the meaning given in AS 43.55.023.~~

* **Sec. 9~~10~~**. AS 43.55.028(j) is amended to read:

(j) If an applicant or claimant has an outstanding liability to the state directly related to the applicant's or claimant's oil or gas exploration, development, or production and the department has not previously reduced the amount paid to that applicant or claimant for a certificate or refund because of that outstanding liability, the department may purchase only that portion of a certificate or pay only that portion of a refund that exceeds the outstanding liability, **regardless of whether the purchase is made with money from the fund or money disbursed to the commissioner**. After notifying the applicant or claimant, the department may apply the amount by which the department reduced its purchase of a certificate or payment for a refund because of an outstanding liability to satisfy the outstanding liability. Satisfaction of an outstanding liability under this subsection does not affect the applicant's ability to contest that liability. The department may enter into contracts or agreements with another department to which the outstanding liability is owed. In this subsection, "outstanding liability" means an amount of tax, interest, penalty, fee, rental, royalty, or other charge for which the state has issued a demand for payment that has not been paid when due and, if contested, has not been finally resolved against the state.

* **Sec. ~~10~~11**. AS 43.55.028 is amended by adding new subsections to read:

(k) The department may negotiate a purchase, refund, or payment under this section to be made from money disbursed to the commissioner. ~~The~~Before making a purchase, refund, or payment, the department shall calculate the maximum amount for a purchase ~~from money disbursed to the commissioner based on the calculations in,~~ refund, or payment under (l) of this section. An applicant or claimant that has requested a purchase, refund, or payment by the department from the fund shall provide a notice of interest to the department by the date determined by the

commissioner if the applicant or claimant is interested in ~~an offer of a~~ purchase ~~by the~~
~~department, refund, or payment~~ from money disbursed to the commissioner instead.
An applicant or claimant that requests a purchase, refund, or payment from the fund
on or after July 1, 2018, shall include any notice of interest in ~~an offer of a~~ purchase ~~by~~
~~the department, refund, or payment~~ from money disbursed to the commissioner at the
same time that the applicant or claimant requests a purchase, refund, or payment by
the department from the fund. The department may not use money disbursed to the
commissioner for a purchase ~~in, refund, or payment under~~ this section if the applicant
or claimant ~~failed~~ fails to provide the department with a notice of interest in ~~an offer~~
~~of a~~ purchase, refund, or payment from money disbursed to the commissioner ~~in the~~
~~time provided in this subsection for that notice.~~ A notice of interest ~~in an offer of~~ for a
purchase, refund, or payment from money disbursed to the commissioner must include
all of the requests for ~~purchase by the department under the fund~~ purchases, refunds, or
payments made by the applicant or claimant and, if applicable, a statement ~~of intent if~~
indicating whether the applicant intends to ~~offer to~~ meet ~~any of the conditions a~~
condition in (m)(1) - (3) of this section. An applicant or claimant may not include in a
notice of interest ~~any a~~ request for purchase ~~by the department, refund, or payment~~
from the fund ~~that if the request~~ could have been included in a previous notice of
interest under this subsection. The department shall make an offer of purchase ~~from,~~
refund, or payment with money disbursed to the commissioner to ~~any an~~ applicant or
claimant that ~~provided~~ provides the department with a timely notice of interest ~~in an~~
~~offer of purchase from money disbursed to the commissioner.~~ The ~~time for the~~
department ~~to~~ shall make an offer of purchase, refund, or payment from money
disbursed to the commissioner ~~shall depend at a time based~~ on the anticipated schedule
for ~~disbursement of money to the commissioner. An offer of purchase is conditioned~~
~~on the~~ disbursement of money to the commissioner. The applicant or claimant shall
notify the department of acceptance of the offer of purchase ~~not later than ten,~~ refund,
or payment within 10 days after the ~~date~~ offer is made. An offer of purchase, refund, or
payment must be conditioned on the ~~offer, disbursement of money to the~~
commissioner. A transferable tax credit certificate issued under AS 43.55.023, ~~a~~
production tax credit certificate issued under AS 43.55.025, ~~and a refund~~ or claim for

1 ~~payment-refunds or payments~~ under AS 43.20.046, 43.20.047, or 43.20.053, is not
2 eligible for purchase by the department with money disbursed to the commissioner if
3 the applicant or claimant

4 (1) ~~failed~~fails to provide the department with a notice of interest ~~in~~of
5 an offer of purchase, refund, or payment from money disbursed to the commissioner
6 ~~in~~by the ~~time provided in~~date determined by the commissioner under this subsection
7 ~~for that notice~~; or

8 (2) ~~declined~~declines an offer of purchase, refund, or payment by the
9 department with money disbursed to the commissioner for that transferable tax credit
10 certificate ~~issued under AS 43.55.023, a~~ production tax credit certificate ~~issued under~~
11 ~~AS 43.55.025, or a~~ refund or claim for payment ~~under AS 43.20.046, 43.20.047, or~~
12 ~~43.20.053.~~

13 (l) The department shall calculate the maximum amount for a purchase ~~from,~~
14 refund, or payment with money disbursed to the commissioner ~~as provided in this~~
15 ~~subsection.~~ The maximum amount for a purchase, refund, or payment is the sum of
16 the assumed payment amounts for purchases, refunds, and payments for each year
17 discounted ~~each year~~ as provided in (m) of this section. The assumed payment amount
18 for each year is ~~determined based on~~ the assumed appropriations to the fund ~~and~~
19 multiplied by the assumed proration ~~methodology for the requests for payment from~~
20 ~~the fund. amount calculated in this subsection.~~ The assumed appropriation to the fund
21 each year is an amount equal to the percentage provided under (c) of this section of the
22 total ~~of all~~ taxes levied by AS 43.55.011 as forecast by the department before the
23 application of ~~any~~ tax credits. The assumed proration ~~methodology for the requests for~~
24 ~~payment from the fund~~ amount is that proportion of payments the department would
25 have allocated ~~payments~~ from the fund, if money had not been disbursed to the
26 commissioner, based on the date of the request for purchase ~~from the fund with~~
27 ~~requests received in same year allocated together with a priority in allocation for~~
28 ~~payments to the earliest year. For purposes of,~~ refund, or payment from the fund.
29 When determining the assumed proration ~~methodology, it is assumed~~ amount under
30 this subsection, the department shall

31 (1) allocate requests received in the same year together;

(2) prioritize requests for payments from the earliest to the latest year;
and

(3) assume that no purchases ~~were~~are made with money disbursed to the commissioner.

(m) For purposes of the calculation in (l) of this section, the department shall discount the assumed payment amount each year after the first year by a discount rate ~~determined under this subsection.~~ Unless another discount rate in this subsection applies, a discount rate of 10 percent ~~a year~~ applies to the assumed payment amount for a request for purchase of a transferable tax credit certificate issued under AS 43.55.023 or a production tax credit certificate issued under AS 43.55.025. ~~The~~An applicant's agreement ~~of an applicant for to~~ a discount rate ~~in~~under (1) - (3) of this subsection ~~shall be~~is only consideration ~~exclusively~~ for the amount ~~by which that~~ the purchase exceeds the amount ~~of the purchase that would have been purchased~~ in the absence of the agreement. ~~A discount rate based on the true interest cost plus 1.5 percent and is less than ten percent applies each year to the assumed payment amount for~~For a refund or claim for payment under AS 43.20.046, 43.20.047, or 43.20.053: ~~For the assumed payment amount for, the discount rate is the true interest cost plus 1.5 percent, but may not exceed 10 percent. For a request for~~ purchase of a transferable tax credit certificate issued under AS 43.55.023 or a production tax credit certificate issued under AS 43.55.025, ~~a~~the discount rate ~~based on~~is the true interest cost plus 1.5 percent ~~and is less than ten, but may not exceed 10 percent applies each year, in total,~~

(1) for either a transferable tax credit certificate issued under AS 43.55.023 for which the applicant ~~was required to submit~~submitted data required under AS 43.55.025(f)(2) or a production tax credit certificate issued under AS 43.55.025, if the applicant ~~for the purchase~~ agrees as a condition of the purchase that the 10-year confidentiality period under AS 43.55.025(f)(2)(C)(ii) that would otherwise apply to the seismic data or other geophysical data is ~~explicitly~~ waived by the applicant;

(2) if the applicant, or an entity related to the applicant ~~on~~with the applicant's consent, and the Department of Natural Resources ~~have agreed~~agree to an overriding royalty interest agreement under AS 44.37.230; or

(3) if the applicant commits to incur, not later than 24 months after the purchase of the certificate, qualified capital expenditures in an amount greater than or equal to the purchase amount ~~provided~~, and

(A) the applicant provides to the department evidence of the commitment ~~to the department~~; and a plan to

(i) use the qualified capital expenditures for the purpose of increasing production of oil or gas from leases or properties in the state; and

(ii) maximize the hiring of state residents and use of state businesses related to qualified capital expenditures;

(B) the applicant agrees in writing that, if the applicant does not incur qualified capital expenditures in an amount greater than or equal to the purchase amount within 24 months after the purchase of the certificate, the applicant shall pay the department the lesser of the difference between the purchase amount and the

(i) amount the applicant would have been paid had this subsection not applied; or

(ii) actual amount of qualified capital expenditures incurred by the applicant in the 24-month period; and

(C) after reviewing documents submitted under (A) and (B) of this paragraph, the commissioner approves the ~~lower~~ reduced discount rate for the purchase.

(n) ~~A~~ An agreement under (m)(3)(B) of this section may require the applicant to pay the department interest on the amount due under (m)(3)(B) of this section. The interest rate must be consistent with the interest rate provided for a delinquent tax under AS 43.05.225. Payment under (m)(3)(B) of this section and interest under this subsection is waived if the department determines that the applicant could not incur the qualified capital expenditures because of a natural disaster, injunction or other court order, or administrative order.

(o) An applicant or claimant may not use a transferable tax credit certificate issued under AS 43.55.023, a—production tax credit certificate issued under

AS 43.55.025, or ~~a~~ refund or claim for payment under AS 43.20.046, 43.20.047, or 43.20.053 purchased by the department with money disbursed to the commissioner ~~is inapplicable~~ against tax liability ~~regardless of whether~~, even if the purchase, refund, or payment amount was less than the total amount requested for purchase, refund, or payment.

(p) The department shall provide to the Department of Natural Resources the information necessary to evaluate an overriding royalty interest for the purposes of AS 44.37.230.

(q) After bonds are first issued by the Alaska Tax Credit Certificate Bond Corporation established under AS 37.18.010, the legislature may determine the amount of an appropriation under (b)(1) of this section by multiplying the percentage under (c) of this section by the net revenue from taxes levied by AS 43.55.011.

(r) The legislature may reduce an appropriation made under (b)(1) of this section by an amount equal to the amount appropriated to the Alaska Tax Credit Certificate Bond Corporation for maintenance of the required debt service reserve in the Alaska Tax Credit Certificate Bond Corporation reserve fund, as calculated under AS 37.18.040(g).

(s) The legislature may, for purposes of making purchases, refunds, and payments under this section, appropriate an amount equal to the amount disbursed to the commissioner by the corporation for purchases, refunds, and payments under this section.

* **Sec. ~~44~~12.** AS 44.37 is amended by adding a new section to read:

Article 4. ~~Miscellaneous Provisions~~ Tax Credit Certificates and Overriding Royalties.

Sec. 44.37.230. Duties of the department with respect to purchases of tax credit certificates and overriding royalty interest agreements. (a) The department shall provide necessary information to and consult with the Department of Revenue ~~regarding—the~~ to determine whether a discount rate is applicable under AS 43.55.028(m).

(b) The department may enter into an overriding royalty interest agreement in favor of the state with an applicant ~~requesting that~~ requests a purchase by the Department of Revenue under AS 43.55.028 from money disbursed to the

commissioner of revenue from the Alaska Tax Credit Certificate Bond Corporation reserve fund established in AS 37.18.040 of ~~either~~ a transferable tax credit certificate issued under AS 43.55.023 or ~~a~~ production tax credit certificate issued under AS 43.55.025. The department may enter into an ~~overriding royalty interest~~ agreement only if the anticipated net present value from the agreement to the state is equal to or greater than the remainder of the value of the tax credit certificate requested for purchase at the proposed ~~lower~~reduced discount rate under AS 43.55.028(m)(2), subtracted from the value of the tax credit certificate requested for purchase ~~calculated~~ in the absence of the agreement.

(c) An applicant requesting a ~~lower~~reduced discount rate under AS 43.55.028(m)(2) shall submit a proposed ~~overriding royalty interest~~ agreement to the department. The proposed agreement must include

(1) a description of the lease or leases ~~subject to the proposed agreement~~ in which the applicant holds a working interest that are subject to the proposed agreement;

(2) the overriding royalty interest in oil produced from the lease or leases offered to the state under the proposed agreement expressed as a ~~percent~~percentage of the total oil produced from the lease or leases ~~that does; a~~ percentage proposed under this paragraph may not exceed the working interest of the applicant.

(d) The monthly payment to the state ~~in~~under an ~~overriding royalty interest~~ agreement ~~must be~~is calculated by multiplying the prevailing value of the monthly oil production from the lease or leases subject to the agreement by the product of the total monthly volume of oil production from the lease or leases subject to the agreement ~~multiplied by~~and the percent of total oil production offered to the state under the agreement. ~~No deductions~~A deduction may not be applied ~~in this~~to a payment ~~calculation~~calculated under this subsection. The Department of Revenue shall determine and post on its Internet website the prevailing value of the oil ~~shall be as determined and posted by the Department of Revenue~~ under AS 43.55 as provided in regulation.

(e) The amount of an underpayment or overpayment of a monthly payment for

1 a payment in an ~~overriding royalty interest~~ agreement bears interest in each calendar
2 quarter at the rate of 5.25 percentage points above the annual rate charged to member
3 banks for advances by the 12th Federal Reserve District as of the first day of that
4 calendar quarter, compounded quarterly as of the last day of that quarter.

5 (f) ~~The department shall evaluate~~When evaluating an ~~offer for an overriding~~
6 ~~royalty interest agreement by considering~~ the ~~following~~department shall consider

7 (1) the anticipated costs ~~for issuance~~to issue and ~~administration for~~
8 ~~bonds~~administer a bond under AS 37.18 if the tax credit certificate ~~was~~is purchased
9 ~~with the proposed lower~~at a reduced discount rate under AS 43.55.028(m)(2);

10 (2) the production or projected production from ~~the~~a lease ~~or leases~~
11 subject to the proposed agreement;

12 (3) the value or projected value of the oil produced from ~~the~~a lease ~~or~~
13 ~~leases~~ subject to the proposed agreement;

14 (4) the timing for production from ~~the~~a lease ~~or leases~~ subject to the
15 proposed agreement;

16 (5) the likelihood of production from ~~the~~a lease ~~or leases~~ subject to the
17 proposed agreement;

18 (6) the existence of and burdens ~~on~~of other interests on ~~the~~a lease ~~or~~
19 ~~leases~~ subject to the proposed agreement;

20 (7) ~~any~~ cost data or financial information submitted with the ~~offer or~~
21 ~~requested by the department;~~proposed agreement; and

22 (8) other information submitted with the ~~offer or~~proposed agreement.

23 (g) The department may request from an applicant additional information
24 necessary to make a determination under (f) of this section. Before an agreement may
25 be entered into, an applicant shall provide the information requested by the
26 department; under this subsection.

27 (gh) The department may enter into ~~agreements~~an agreement necessary to
28 carry out the purpose of this section, including ~~agreements~~an agreement to maintain
29 the confidentiality of information submitted to the department to evaluate an
30 overriding royalty interest agreement.

31 (hi) The department shall separately account for the revenue collected from an

1 agreement that the department deposits in the general fund. The legislature may
2 appropriate the annual estimated balance in the account to the Alaska tax credit
3 certificate bond corporation reserve fund established under AS 37.18.040.

4 (j) In this section, unless the context requires otherwise,

5 (1) "agreement" means an overriding royalty interest agreement ~~shall~~
6 ~~be deposited into the general fund.~~ described in this section;

7 ~~(i) In this section,~~

8 ~~(12)~~ "applicant" includes an entity related to the applicant on
9 ~~consent~~ agent or representative of the applicant; and

10 ~~(23)~~ "department" means the Department of Natural Resources.

11 * Sec. 13. Sections 2, 5, 8, 10, 31, 37, 40, and 43, ch. 3, SSSLA 2017, are repealed.

12 * Sec. 1214. The uncoded law of the State of Alaska is amended by adding a new section
13 to read:

14 ~~TRANSITION: REGULATIONS. The Department of Natural Resources and the~~
15 ~~Department of Revenue may adopt regulations necessary to implement the changes made by~~
16 ~~this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not~~
17 ~~before the effective date of the law implemented by the regulation.~~

18 NOTICE TO REVISOR OF STATUTES. (a) The commissioner of revenue shall
19 notify the revisor of statutes in writing

20 (1) if bonds

21 (A) are not issued under AS 37.18.010 - 37.18.190 by January 1, 2022;

22 or

23 (B) are issued under AS 37.18.010 - 37.18.190 before January 1, 2022,

24 when the principal amounts of the bonds issued under AS 37.18.010 - 37.18.190,
25 together with the interest on them and any interest owing on unpaid installments of
26 interest, and all other obligations with respect to the bonds, have been fully met and
27 discharged; and

28 (2) when

29 (A) there are no outstanding applications for purchase of tax credit
30 certificates or claims for refunds or payments for which payment has not been made
31 under AS 43.55.028(e); and

(B) it has been at least one year since a person has applied for a purchase, refund, or payment under AS 43.55.028.

(b) In this section,

(1) "claim for refund or payment" means a refund or payment claimed under AS 43.20.046, 43.20.047, or 43.20.053 subject to payment under AS 43.55.028;

(2) "tax credit certificate" means a transferable tax credit certificate issued under AS 43.55.023 or a production tax credit certificate issued under AS 43.55.025 subject to purchase under AS 43.55.028.

* Sec. 15—~~* Sec. 13~~. The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: RETROACTIVITY OF REGULATIONS. Notwithstanding any contrary provision of AS 44.62.240, if the

(1) Department of Revenue expressly designates in a regulation that the regulation applies retroactively, a regulation adopted by the Department of Revenue to implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to the effective date of the law implemented by the regulation;

(2) Department of Natural Resources expressly designates in a regulation that the regulation applies retroactively, a regulation adopted by the Department of Natural Resources to implement, interpret, make specific, or otherwise carry out this Act may apply retroactively to the effective date of the law implemented by the regulation.

~~* Sec. 14~~16. Section 46, ch. 3, SSSLA 2017, is repealed.

* Sec. 17. This Act takes effect immediately under AS 01.10.070(c).